IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 10004 of 2004

&

WRIT PETITION NO.9896 OF 2004

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W.P.NO.10004 OF 2004:

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Between:

M/s Vizag Automobile Service Station rep. by its Partner Sri. M.Ramachandra Rao
S/o Jaganadhar Rao , aged about 48 yrs Bowdara Road, Visakhapatnam , Visakhapatanam Dist

..... PETITIONER

AND

M/s Bharart Petroleum Corporation Ltd., A.Govarnament of India Undertaking rep.by its Territory Manager(Retail), Visakhapatnam Visakhapatnam Dist

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus directing the respondent to supply petroleum products to the petitioner outlet till the competent Civil Court direct the respondent to remove the structures and till the licence is subsisting by declaring the letter issued by the respondent herein in proceedings No.VTR.4.8, dt. 8/06/2004 as arbitrary, illegal and unconstitutional

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W.P.NO.9896 OF 2004:

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Between:

M/s. Tirumala Enterprises, rep by Partner Sri. T. Surya Bhaskar Reddy S/o T. Satyanarayana Reddy
Bowdara Road, Visakhapatnam, Visakhapatnam District

..... PETITIONER

AND

M/s. Bharat Petroleum Corporation Ltd., A Government of India Undertaking, rep by
Territoriy Manager (Retial), Visakhapatnam, Visakhapatnam District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or Direction directing the respondent to supply petroleum products to the petitioner outlet till the competent civil Court direct the respondent to remove the structures and till the licence is subsisting by declaring the letter issued by the respondent herein in proceeding No. VT.R.4.10, dated 8-6-2004 as arbitrary, illegal and unconstitutional

Counsel for the Petitioner in both the W.Ps: MR.T.NAGARJUNA REDDY

Counsel for the Respondent in both the W.Ps: MR.O.MANOHER REDDY

The Court made the following :

COMMON ORDER:

Heard both sides and at their request, both the writ petitions are being taken up for disposal.

2. The petitioner filed these writ petitions seeking writ of mandamus to direct the respondent herein for supplying petroleum products till the competent civil court vacates him in the manner provided under law.

3. There is no dispute as to the fact that the petitioner is holding a licence for selling the petroleum products and also having dealership, which is being renewed from time to time. The petitioner is running an outlet, which is directly under the dealership of the respondent corporation herein. There is no dispute to the fact that in a civil suit filed in O.S.481/1991 on the file of 1st Additional Senior Civil Judge, Visakhapatnam, a decree was passed against which first appeal and second appeal were filed before this court. Ultimately the same went against granting some time for vacating the premises.

4. At the stage of execution in E.P.No.60/2004, the petitioner sought objection against the issuance of the proceedings No.VT.R.4.8 and 10, dated 08.06.2004 issued by the respondent corporation. The main grievance is that as long as the civil court does not vacate him under due process, the respondent has no power to issue any such directions.

5. On considering the submissions made by both sides and after perusing the

material on record, and also taking note that already there is a decree by compentent court, which has been confirmed by higher courts, the petitioner is trying to lay claim during process of execution, which is still pending consideration before the trial court.

6. Having regarding to the same, any interdiction by way of Article 226 of the Constitution of India, at the instance of the petitioner, would only virtually amounts to the interdiction of the proceedings before the civil court. It always open for the petitioner to approach the very same court for appropriate relief as contemplated under law and seek relief for which he is entitled to. However, this court cannot refuse to exercise any power under Article 226 of the constitution of India. Hence I do not see any merits in these writ petitions and they are accordingly dismissed. No costs.

dsr/mrr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Territory Manager (Retail),

M/s.Bharat Petroleum Corporation Limited,

A Government of India Undertaking,

Visakhapatnam.

2. Two CD copies.